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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,647	08/07/2003	Barbara Gibson Merrill	0986-UP-1	1646
27668 7590 01/30/2007 GODBey GRIFFITHS REISS 1001 BISHOP STREET 2300 PAUAHI TOWER HONOLULU, HI 96813			EXAMINER FERNSTROM, KURT	
			ART UNIT 3711	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/30/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,647	MERRILL, BARBARA GIBSON	
	Examiner	Art Unit	
	Kurt Fernstrom	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-20 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/7/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite because it lacks antecedent basis as claim 10, from which claims 13-18 depend, does not recite steps 1 through 5. Also, the claims are improper dependent claims, as they fail to further limit the scope of the claim. It is improper for a dependent claim to remove, rather than add, limitations to the claimed invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlberg in view of Ashman. Carlberg discloses a teaching device comprising a toy having a head and torso, and indicia at selected locations corresponding to pertinent locations on a person's body for teaching procedures related

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to the body. Carlberg fails to disclose indicia relating to meridian and chakra points.

Ashman discloses in Figure 1 and in the specification an aid for teaching chakra concepts comprising a head and torso, and indicia relating to chakra points on the body.

Meridian points are considered to be an obvious variation on the teachings of Ashman.

It would have been obvious to one of ordinary skill in the relevant art to modify the device of Carlberg by providing chakra indicia as disclosed by Ashman for the purpose of teaching the user about chakra points. With respect to claims 2 and 3, the additional claimed indicia locations are considered to be obvious variations on the disclosure of Carlberg as viewed in combination with Ashman. With respect to claims 2 and 3, the claimed configurations are also considered to be obvious variations on the disclosure of Carlberg as viewed in combination with Ashman. With respect to claims 7 and 8, the indicia of Carlberg are both tactile and visual. With respect to claim 10, the indicia of Carlberg inherently have some color.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlberg in view of Ashman, and further in view of Ehrenpreis. Carlberg as viewed in combination with Ashman discloses all of the claimed limitations with the exception of the use of a stuffed animal. This feature is known in the art, as disclosed for example by Ehrenpreis. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Carlberg as viewed in combination with Ashman by providing a stuffed animal for the purpose of enhancing the attractiveness of the device to a child.

Claims 10, 11 and 14-20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlberg in view of Ashman, and further in view of Ehrenpreis.

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Carlberg as viewed in combination with Ashman discloses or suggests all of the claimed limitations with the exception of the step of ascertaining the nature and intensity of a subject's discomfort. Cain discloses a method of demonstrating the nature and intensity of a subject's discomfort by ascertaining this information, and then locating the points on a model of the human body. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Carlberg as viewed in combination with Ashman by providing a step of ascertaining the nature and intensity of a subject's discomfort for the purpose of more directly targeting the proper areas to focus on. Both Carlberg and Ashman are considered to disclose the step of teaching a user in medical procedures using a toy or model of the body. With respect to claim 11, determining a particular sequence is considered to be obvious variations on the disclosed prior art. Claims 13-18 fail to further limit the invention, as discussed above. With respect to claim 19, Carlberg discloses a doll. With respect to claim 20, the indicia of Carlberg inherently have some color.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose or suggest a method having each of the claimed method steps. While the prior art discloses various methods of use for toys in relation

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to educational teaching, and Ashman in particular discloses a method relating to charka points, the specific steps of claim 12, when taken as a whole, are not suggested.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Stump, Ray, Coomansingh, Smith-Whitley, Summerville, Kling, Neuschatz and Porter disclose various dolls and toys for use in teaching about medical concerns. Anderer, Weiner, Kaufman and Riggs disclose various methods of holistic healing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M, T, Th 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KF

January 26, 2007



**KURT FERNSTROM
PRIMARY EXAMINER**